

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

YARON GISSIN, Individually and on Behalf of All Those Similarly Situated,	:	Civil Action No. 1:09-cv-09338-SAS
Plaintiff,	:	<u>CLASS ACTION</u>
v.	:	
DONALD L. ENDRES, et al.,	:	
Defendants.	:	

JAN 29 2010

**STIPULATION AND [PROPOSED] ORDER APPOINTING LEAD
PLAINTIFFS AND APPROVING LEAD PLAINTIFFS'
SELECTION OF LEAD AND LIAISON COUNSEL**

WHEREAS, two motions for appointment as lead plaintiff and approval of lead counsel were filed on the statutory deadline of January 11, 2010, in the above captioned matter;

WHEREAS, the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. §78u-4(a)(3)(B)(iii), provides, *inter alia*, that the most adequate plaintiff to serve as lead plaintiff is, in the determination of the Court, the “person or group of persons” that has the largest financial interest in the relief sought by the class and otherwise satisfies the requirements of Fed. R. Civ. P. 23.

WHEREAS, the Ives Group¹ filed a motion for appointment as lead plaintiff and approval of lead counsel on the statutory deadline;

WHEREAS, the VeraSun Investor Group² filed a motion for appointment as lead plaintiff and approval of lead counsel on the statutory deadline;

¹ The “Ives Group” was defined to include Randall G. Ives, Wayne Mitchell, Jim Trotter, Dick Bossen, and Bruce Lammers.

² The “VeraSun Investor Group” was defined to include Son Nguyen, James Szumera, individually and as a Partner for Macor, Yaron Gissin, and Sham Anandakrishnan.

WHEREAS, the Ives Group and the VeraSun Investor Group agree that each movant has a significant financial interest in the relief sought by the class and has made the necessary showing of adequacy and typicality;

IT IS HEREBY STIPULATED AND AGREED, subject to the Court's approval, as follows:

1. Plaintiffs Wayne Mitchell and Son Nguyen are **APPOINTED** to serve as Lead Plaintiffs pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(3)(B), as amended by the PSLRA, in the above-captioned action and all related actions consolidated pursuant to paragraph 3 of this Order.

2. Wayne Mitchell and Son Nguyen's selection of lead and liaison counsel is **APPROVED**, and Barroway Topaz Kessler Meltzer & Check LLP and Gold Bennett Cera & Sidener LLP are **APPOINTED** as Lead Counsel for the putative Class and Cohen Milstein Sellers & Toll PLLC is **APPOINTED** as Liaison Counsel for the putative Class.

3. Pursuant to Fed. R. Civ. P. 42(a), any subsequently filed or transferred actions on behalf of investors who purchased or otherwise acquired securities issued by VeraSun Energy Corp. and based on claims related to the claims asserted in the above captioned matter are **CONSOLIDATED** for all purposes.

4. Lead Counsel for the Class shall have the following responsibilities and duties, to be carried out either personally or through counsel whom Lead Counsel shall designate:

- a. the briefing and argument of motions;
- b. the conduct of discovery proceedings;
- c. the examination of witnesses in depositions;

- d. the selection of counsel to act as a spokesperson at pretrial conferences;
- e. to call meetings of the plaintiffs' counsel as they deem necessary and appropriate from time to time;
- f. to conduct all settlement negotiations with counsel for defendants;
- g. to conduct and/or direct the pretrial discovery proceedings and the preparation for trial of this matter and to delegate work responsibilities to selected counsel as may be required; and,
- h. to supervise any other matters concerning the prosecution, resolution or settlement of this action.

5. No motion, request for discovery, or other pretrial proceedings shall be initiated or filed by any plaintiff in the Class without the approval of Lead Counsel, so as to prevent the duplicative pleadings or discovery by plaintiffs. No settlement negotiations shall be conducted without the approval of Lead Counsel.

6. Lead Counsel shall have the responsibility of receiving and disseminating Court orders and notices, other than as may be served through this Court's ECF System.

7. Lead Counsel shall be the contact between plaintiffs' counsel and defendants' counsel, as well as the spokesperson for plaintiffs' counsel, and shall direct and coordinate the activities of plaintiffs' counsel.

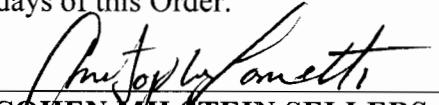
8. Other than as served through the Court's ECF System: Defendants shall effect service of papers on plaintiffs by serving a copy of same on Lead Counsel by overnight mail service, telecopy or hand delivery. Lead Counsel shall serve copies of such papers on the other plaintiffs' counsel by first-class mail. Plaintiffs shall effect

service of papers on defendants by serving a copy on defendants' counsel by overnight mail service, telecopy, or hand delivery.

9. During the pendency of this litigation, or until further order of this Court, the parties shall take reasonable steps to preserve all documents within their possession, custody, or control, including computer-generated and stored information, and materials such as computerized data and electronic mail, containing information which is relevant to the subject matter of the pending litigation.

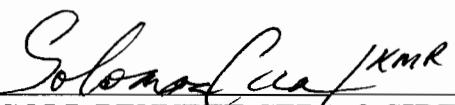
10. The Court hereby orders that Lead Plaintiffs for the Class is permitted to file an amended class action complaint within 45 days of this Order.

Dated: January 28, 2010


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* * *

IT IS SO ORDERED.

Dated: Jan. 21, 2010



HONORABLE SHIRA A. SCHEINDLIN
UNITED STATES DISTRICT JUDGE